

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Garland Henderson, et al.,

Plaintiffs

v.

Clark County School District,

Defendant

Case No.: 2:17-cv-01767-JAD-NJK

**Order Construing Stipulation to Dismiss as  
a Motion to Amend Under FRCP 15(a)  
and Granting It**

[ECF No. 30]

Plaintiffs Garland Henderson and Tammie Keith-Henderson are bus drivers for the Clark County School District, who sue their employer for alleged violations of Title VII and the Age Discrimination in Employment Act. The parties filed a stipulation and proposed order to dismiss, with prejudice, Tammie's fifth through eighth claims for relief, leaving only retaliation claims by both Garland and Tammie.<sup>1</sup> But the parties cite no authority to support their joint request, and the Ninth Circuit has instructed that "Federal Rule of Civil Procedure 15(a) is the appropriate mechanism [when] 'a plaintiff desires to eliminate an issue, or one or more but less than all of several claims, but without dismissing as to any of the defendants.'" <sup>2</sup> I therefore construe the parties' dismissal stipulation<sup>3</sup> as one to amend the complaint under FRCP 15(a)(2), and I grant it.

Accordingly, with good cause appearing, IT IS HEREBY ORDERED that the parties' stipulation to dismiss some but not all of Tammie Keith-Henderson's claims [ECF No. 30], which I construe as a stipulation under FRCP 15(a)(2) for the plaintiffs to amend their complaint, is **GRANTED**. The plaintiffs have until **March 5, 2018**, to file a second-amended complaint

---


<sup>1</sup> ECF No. 30.

<sup>2</sup> *Hells Canyon Preservation Council v. U.S. Forest Serv.*, 403 F.3d 683, 687–88 (9th Cir. 2005) (quoting *Ethridge v. Harbor House Restaurant*, 861 F.2d 1389, 1392 (9th Cir. 1988)).

<sup>3</sup> ECF No. 30.

1 that does **not** contain any of the claims that the parties agreed would be dismissed with prejudice.  
2 The plaintiffs are cautioned that the scope of this leave is narrow: they may only drop claims, not  
3 add new claims or allegations.

4 Dated: February 21, 2018

5   
6 U.S. District Judge Jennifer A. Dorsey